

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

The amendment to subrule 11.21(3) adds language stating who may serve as the legal representative of the Board. The change gives the Board the option of designating an attorney to represent it.

In compliance with Iowa Code section 17A.4(1), the Board finds that notice and public participation are unnecessary because this amendment is simultaneously being proposed under Notice of Intended Action to allow for public comment.

The Board also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of this amendment should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on June 25, 2008, as the Board of Educational Examiners has the authority under Iowa Code section 272.2 to establish the requirements for legal representation of the Board.

The Board of Educational Examiners adopted this amendment on June 13, 2008.

This amendment is also published herein under Notice of Intended Action as **ARC 6980B** to allow for public comment.

This amendment is intended to implement Iowa Code chapter 272.

This amendment became effective on June 25, 2008.

The following amendment is adopted.

Amend subrule 11.21(3) as follows:

11.21(3) Legal representation.

a. The respondent has a right to participate in all hearings or prehearing conferences and may be represented by an attorney or another person authorized by law.

b. The office of the attorney general or an attorney designated by the executive director shall be responsible for prosecuting complaint allegations in all contested case proceedings before the board, except those cases in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations. The assistant attorney general or other designated attorney assigned to prosecute a contested case before the board shall not represent the board or the complainant in that case, but shall represent the public interest.

c. In a case in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations, the person who files the complaint with the board, or the complainant’s designee, shall represent the complainant during the contested case proceedings.

[Filed Emergency 6/25/08, effective 6/25/08]

[Published 7/16/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.